

**GOVERNMENT OF PUERTO RICO  
PUBLIC SERVICE REGULATORY BOARD  
PUERTO RICO ENERGY BUREAU**

**NEPR**

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**IN RE:** ENERGY EFFICIENCY AND DEMAND RESPONSE TRANSITION PERIOD PLAN

**CASE NO.:** NEPR-MI-2022-0001

**Subject:** Memorandum of Law in Support of Request for Confidential Treatment of OneDrive file

**MEMORANDUM OF LAW IN SUPPORT OF CONFIDENTIAL TREATMENT OF ONEDRIVE FILE OF EXHIBIT I TO THE "INFORMATIVE MOTION IN COMPLIANCE WITH JANUARY 23, 2026, RESOLUTION AND ORDER"**

**COMES NOW** the Puerto Rico Electric Power Authority ("PREPA"), through its counsel of record, and respectfully submits and requests as follows:

I. **Procedural Background**

1. On January 23, 2026, the Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("January 23 Resolution"), ordering PREPA and LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly "LUMA") to take several actions regarding the Energy Efficiency ("EE") program. Specifically relevant to this motion, PREPA was ordered to respond to several detailed requirements of information ("ROIs") regarding EE Rider fund transfers within ten (10) business days of the notification of the Resolution.

2. On February 5, 2026, PREPA timely filed its *Motion Requesting Extension of Time to Comply with January 23, 2026, Resolution and Order* stating that it had been diligently preparing the responses and gathering the historical communications and supporting documentation required. However, due to the scope of the requested information, it needed additional time to ensure accurate

and complete submissions. Therefore, PREPA requested a brief extension of seven (7) business days, until February 17, to comply with the Order.

3. On February 17, 2026, PREPA filed its *Informative Motion in Compliance with January 23, 2026, Resolution and Order* ("Informative Motion"), submitting its responses to the Energy Bureau's ROI's. Specifically, PREPA provided detailed historical information on EE fund transfers from FY2024 to the present, including, as requested, a confidential OneDrive file with communications between PREPA and LUMA. Therefore, PREPA requested that the file be kept under seal and requested a period of ten (10) days to submit the required Memorandum of Law in support of its confidentiality request, including the redacted/public versions of the document, pursuant to Section A.2 of the Energy Bureau's *Policy on Management of Confidential Information Procedures before the Commission* ("Policy on Confidential Information").

4. Furthermore, in its Informative Motion, PREPA advised this Energy Bureau that it had been working diligently with its Information Technology Department to locate additional communications sent to and from a former employee of PREPA's Finance Department, and that, should any responsive communications be identified, PREPA would promptly supplement its production. PREPA now informs the Energy Bureau that no additional responsive communications concerning the Energy Efficiency ("EE") Program were identified.

II. **Memorandum of Law in Support of Request for Confidential Treatment**

5. Act No. 57-2014, known as the *Puerto Rico Energy Transformation and RELIEF Act* (“Act 57-2014”), establishes a specific framework for the submission and treatment of confidential information before the Energy Bureau. Under Section 6.15, any party obligated to provide information may assert a claim of confidentiality when it understands that the materials submitted are subject to a confidentiality privilege. In such cases, the party may formally petition the Energy Bureau to safeguard the information from public disclosure. See 22 LPRA § 1054n. The statute further vests the Energy Bureau with discretion to assess the request and to determine, following its evaluation, whether the information merits confidential treatment in accordance with Section 6.15(a) of Act 57-2014.

6. Act 57-2014 also delineates strict limitations on who may access information granted confidential status. Pursuant to Section 6.15(b), such materials may be disclosed solely to attorneys and outside consultants participating in the administrative proceeding, and only after the execution of an appropriate confidentiality agreement. See 22 L.P.R.A. § 1054n.

7. The statute further establishes that the Energy Bureau is to withhold documents from public access only under extraordinary circumstances. When such circumstances are present, the Energy Bureau must ensure that the information is adequately protected and disclosed exclusively to those internal personnel whose functions require access, subject to nondisclosure obligations. Notwithstanding these protections, the Energy Bureau is required to order the

submission of a redacted or non-confidential version of the materials for public inspection, as provided in Section 6.15(c).3.

8. In connection with the duties of electric power service companies, Section 1.10 (i) of the *Puerto Rico Energy Public Policy Act*, Act No. 17-2019, as amended (“Act 17-2019”) provides that electric power service companies shall submit information requested by customers, except for confidential information in accordance with the Rules of Evidence of Puerto Rico. 22 LPRA § 1141i.

9. The Energy Bureau's *Policy on Confidential Information*, CEPR-MI-2016-0009, originally issued on August 31, 2016, and later amended on September 21, 2016, sets forth the procedural requirements governing requests for confidential treatment of documents submitted before the Energy Bureau. Under this framework, a party seeking confidentiality must expressly designate the information claimed to be confidential and submit a legal memorandum articulating the statutory or regulatory grounds supporting such a request, together with the evidentiary basis justifying confidential treatment. See CEPR-MI-2016-0009, Section A, as amended by Resolution dated September 16, 2016. The Policy further requires that the legal memorandum include a detailed table identifying the specific information for which confidentiality is sought, along with a summary explaining how each item satisfies the applicable legal standard. See *id.* ¶ 3. In addition, the requesting party must submit a separate confidential version of the document containing the protected information. See *id.* ¶ 6.

10. In parallel, Regulation No. 8543, known as *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings* ("Regulation 8543"), establishes an analogous mechanism applicable to adjudicatory proceedings before the Energy Bureau. Specifically, Section 1.15 imposes upon any person required to disclose information that may be privileged under the Rules of Evidence the obligation to identify the allegedly privileged material, formally request its protection, and provide written legal arguments in support of the claimed privilege. The Energy Bureau is then tasked with evaluating the request and, upon determining that the information warrants protection, proceeding in accordance with Article 6.15 of Act No. 57-2014, as amended.

11. The OneDrive file to Exhibit 1 of the Informative Motion includes data regarding bank account names and numbers associated with LUMA and/or PREPA and it also includes internal communications between agencies.

12. Act No. 122-2019, known as the *Puerto Rico Open Government Data Act* ("Act No. 122-2019"), expressly excludes from public access any information regarding internal communications between agencies and whose disclosure would infringe upon the privacy or fundamental rights of third parties. This statutory exception encompasses, among other categories, street addresses, telephone numbers, emergency contact details, Social Security numbers, credit card information, tax and financial records, banking activity, confidential information belonging to private third parties, trade secrets, tax returns, debt-related data, and

personal identification numbers held by a governmental entity. See Act No. 122-2019, Section 4 (iii), (vi) and (xi).

13. Pursuant to the foregoing, PREPA respectfully requests the Energy Bureau to maintain the OneDrive file confidential. Below is a table that shows the confidential information and basis for confidentiality:

File	Description	Identification of Information	Summary of Legal Basis for Confidential Treatment
<p><b>Exhibit I OneDrive file- Attachments to ROI 1(b)</b></p>	<p>Email dated October 22, 2024, from LUMA employee to PREPA employee, titled [EXT] Fw: <i>Transferencia CISA.</i></p>	<p>Bank account names and numbers.</p>	<p>Section 4(e)(xi), under Act 122-2019.</p>
<p><b>Exhibit I OneDrive file- Attachments to ROI 1(b)</b></p>	<p>Email chain dated September 16, 2025, between LUMA and PREPA, titled [EXT] Fw: <i>Transferencia Cisa Pasadas,</i> including its attachments.</p>	<p>Bank account name and number.</p>	<p>Section 4(e)(xi), under Act 122-2019.</p>

<p><b>Exhibit I OneDrive file- Attachments to ROI 1(b)</b></p>	<p>Email chain dated September 19, 2025-- which includes emails from September 10, 12, and 18, 2025-- between LUMA and PREPA employees related to the replenish process and EE program including CISA bank statement.</p>	<p>Bank account name and number.</p>	<p>Section 4(e)(xi), under Act 122-2019.</p>
<p><b>Exhibit I OneDrive file- Attachments to ROI 1(b)</b></p>	<p>Email dated September 29, 2025, between LUMA employees and PREPA employees regarding Excel tables regarding financial information and a wire</p>	<p>Bank account name and number.</p>	<p>Section 4(e)(xi) of Act 122-2019.</p>

	transfer titled <i>[EXT] Cash Flow 2025-09-27</i>		
<b>Exhibit I OneDrive file- Attachments to ROI 1(b)</b>	Email chain between LUMA employee and PREPA employees dated October 1 and December 22, 2025, titled <i>RE: [EXT] EE Follow-up RFI</i> , related to an RFI PREPA submitted regarding EE program.	Information related to financial and bank activity and/or confidential information of third parties.	Section 4(e)(xi) of Act 122-2019.
<b>Exhibit I OneDrive file- Attachments to ROI 1(b)</b>	Email chain dated November 21, 2025, between LUMA and PREPA employees titled <i>[EXT] Fw: LUMA-PREP-T-01035-</i>	Names of bank and bank account numbers of both PREPA and LUMA.	Section 4(e)(xi) of Act 122-2019.

	<p>Transmittal-Funding Requests for the Energy Efficiency ("EE"), including letter from LUMA CFO to PREPA's Executive Director.</p>		
<p><b>Exhibit I OneDrive file- Attachments to ROI 1(b)</b></p>	<p>Email chain dated January 28, 2026, between PREPA and LUMA employee, and internal emails between PREPA employee and consultant, related to the first wire transfer related to January 23, 2026, Resolution and Order.</p>	<p>Names of bank and bank account numbers of both PREPA and LUMA</p>	<p>Section 4(e)(xi) of Act 122-2019.</p>

<p><b>Exhibit I OneDrive file- Attachments to ROI 1(b)</b></p>	<p>PREPA Request for funds for LUMA to its Operating Account, including EE funding dated February 11, 2026, including wire transfer information.</p>	<p>Internal communication of PREPA and the names of the bank and the bank account numbers of both PREPA and LUMA</p>	<p>Section 4(e) (iii) and (xi) of Act 122-2019.</p>
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14. Based on the aforementioned, PREPA submits as Attachment A herein, public versions of the OneDrive file of Exhibit I included in the Informative Motion.

15. For the reasons set forth above, PREPA respectfully requests the Energy Bureau to grant confidential treatment to the OneDrive file of Exhibit I of the Informative Motion. PREPA further requests the Energy Bureau to accept the public versions of the OneDrive file included in Attachment A.

**WHEREFORE**, PREPA respectfully requests the Energy Bureau to take **NOTICE** of the information provided, **ACCEPT** this Memorandum of Law, and **GRANT** PREPA's request to keep the OneDrive file confidential.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, on the 27<sup>th</sup> of February 2026.

**CERTIFICATE OF SERVICE:** We hereby certify that this document was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>. We also certify that a true and exact copy of this document was notified to the following parties through attorneys of record:

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Attachment A

#	Date	Communication	Purpose of Communication	Funding	Bank Name and Account Number
1	10/22/2024	Email from LUMA employee to PREPA employee requesting transfer of \$3,822,344.00 for CISA.	Request of fund transfer for CISA and providing LUMA's banking account information for said transfer.	\$3,822,344.00	
2	9/16/2026	LUMA employee to PREPA employee regarding past transfers.	LUMA provided PREPA with historical transfer checks in support of the EE program.	\$3,272,344.00	
3	9/19/2025	LUMA and PREPA chain of emails related to the Replenish Process and Energy Efficiency Program.	The chain of emails includes emails from September 10, 12, and 18, 2025.	N/A	
4	9/29/2025	Email from LUMA employee to PREPA representatives and consultants.	LUMA Treasury provided cash reporting documentation in support of the week ending September 26, 2025.	N/A	
5	10/1/2025	Chain of emails from PREPA employee to LUMA, including emails from December 22, 2025.	PREPA requested additional information regarding the EE program, associated costs, status on opening EE account, and related details to inform the go-forward EE Treasury management process.	N/A	
6	11/21/2025	LUMA employee to PREPA's Executive Director related to funding.	LUMA requested additional funding for FY 2026, as well as for previous FY periods.	\$1,400,000.00	
7	1/28/2026	PREPA employee to LUMA employee regarding the first EE transfer pursuant to the Resolution and Order of January 23, 2026.	PREPA sent a wire transfer confirmation of the first payment of \$4,551,445.00, related to EE funds, pursuant to the Resolution and Order, to LUMA.	\$4,551,445.00	
8	2/11/2026	PREPA internal requests for funds requested by LUMA.	PREPA requests funds for LUMA for the Operating Account, pursuant to Section 7.5(a) of the OMA. Also included is confirmation of PREPA's second payment of EE transfer to LUMA, pursuant to Resolution and Order.	N/A	